

### **REMARKS**

Claims 1-40 are currently pending. By this Amendment, Claims 1, 10-18, and 33 have been amended, Claims 20 and 34-40 have been cancelled, and no new claims have been added. Thus, Claims 1-19 and 21-33 are currently at issue.

#### **I. Anticipation Rejections Over Shelver**

In Paragraph 2 of the Office Action, the Examiner rejected Claims 1-10 and 33-40 over U.S. Patent No. 3,889,434 to Shelver ("Shelver"). Shelver discloses a window having two panes (138,139) of glass held by an adapter strip (120) having a mastic sealing material (131) therein. (Shelver, Col. 3, Lines 47-56; Col. 5, Lines 17-26). The adapter strip (120) is a strip of extruded aluminum having two edges (121,122) and a tongue (130). (Shelver, Col. 5, Lines 33-40). The tongue (130) engages the window frame to attach the adapter (120) to the frame, and the adapter (120) extends completely around the inside of the window frame. (Shelver, Col. 3, Lines 56-62; FIG. 3).

In order for a reference to constitute a §102(b) bar to patentability, the reference must disclose each and every element of the claimed invention. *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771, 218 U.S.P.Q. 781, 789 (Fed. Cir. 1983). It is well-settled law that the burden of establishing a *prima facie* case of anticipation resides with the Patent & Trademark Office. *Ex Parte Skinner*, 2 U.S.P.Q. 2d 1788 (BPAI 1986).

Claims 34-40 have been cancelled, and the Examiner's rejections thereof are moot.

#### **A. Claims 1-9**

Claim 1, as amended, includes, among other elements, "a connector extending from the base and configured to engage the muntin bar end." Applicant respectfully submits that Shelver does not disclose, teach, or suggest this element of Claim 1.

The tongue (130) of the adapter strip (120) of Shelver is not configured for engaging a muntin bar end. In fact, Shelver does not disclose a muntin bar end at all. Rather, the tongue (130) is configured for engaging the window frame and cannot engage a muntin bar end, because

if a muntin bar were present, it would be on the opposite side of the adapter strip (120) as the tongue (130). Thus, the tongue (130) of Shelver cannot be considered to be the “connector” recited in Claim 1. Accordingly, Shelver does not disclose, teach, or suggest the above element of Claim 1, and Shelver cannot anticipate Claim 1.

Additionally, the adapter strip (120) of Shelver does not fall within the scope of amended Claim 1 because the adapter strip (120) is not a “muntin clip.” Indeed, Shelver does not disclose a muntin clip at all. Claim terms are presumed to have the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Sunrace Roots Enter. Co. v. SRAM Co.*, 336 F.3d 1298, 1302, 67 U.S.P.Q.2d 1438, 1441 (Fed. Cir. 2003). Muntin clips are widely used in the window art, and the customary meaning of “muntin clip” used by those skilled in the art does not encompass the adapter strip (120) disclosed in Shelver. Thus, because Shelver does not disclose a muntin clip, Shelver cannot anticipate Claim 1.

Claims 2-9 depend from Claim 1 and contain all the elements of Claim 1. Thus, for the reasons stated above with respect to Claim 1, Shelver does not disclose, teach, or suggest all the elements of Claims 2-9, and Shelver cannot anticipate Claims 2-9.

#### **B. Claim 10**

Claim 10, as amended, includes, among other elements, “a leg extending from the base and configured to engage the muntin bar end.” Applicant respectfully submits that Shelver does not disclose, teach, or suggest this element of Claim 10.

As stated above with respect to Claim 1, Shelver does not disclose, teach, or suggest any connection to a muntin bar end or any ability to connect to a muntin bar end. The tongue (130) of Shelver engages a window frame, rather than a muntin bar end. Thus, for the reasons stated above with respect to Claim 1, Shelver does not disclose, teach, or suggest this element of Claim 10, and Shelver cannot anticipate Claim 10.

Further, like Claim 1, Claim 10 recites a “muntin clip.” As stated above with respect to Claim 1, the adapter strip (120) of Shelver does not fall within the scope of amended Claim 10 because the adapter strip (120) is not a “muntin clip.” Shelver does not even disclose a muntin clip. Thus, for this additional reason, Shelver cannot anticipate Claim 10.

**C. Claim 33**

Claim 33, as amended, includes, among other elements, “a connector extending perpendicularly from the second side of the base and configured to be inserted into the muntin bar end and engage the inner walls of the muntin bar end such that the entire muntin clip is between the panes of glass.” Applicant respectfully submits that Shelver does not disclose, teach, or suggest this element of Claim 33.

As stated above with respect to Claims 1 and 10, Shelver does not disclose, teach, or suggest any connection to a muntin bar end or any ability to connect to a muntin bar end. The tongue (130) of Shelver engages a window frame, rather than a muntin bar end. Additionally, Shelver does not disclose, teach, or suggest that the tongue (130) can be inserted into a muntin bar end and engage the inner walls of the muntin bar end. In fact, because the tongue (130) of Shelver stretches for the entire length of the window frame, it is highly unlikely that it could be inserted into a muntin bar end. Further, the edges of the adapter strip (120) of Shelver are located on the outside of the window panes (138,139). This is necessary for the adapter strip (120) to hold the window panes (138,139). Therefore, the tongue (130) of Shelver is not configured for engaging a muntin bar end “such that the entire muntin clip is between the panes of glass.” Thus, for the reasons stated above with respect to Claims 1 and 10, Shelver does not disclose, teach, or suggest this element of Claim 10, and Shelver cannot anticipate Claim 33.

Further, like Claims 1 and 10, Claim 33 recites a “muntin clip.” As stated above with respect to Claims 1 and 10, the adapter strip (120) of Shelver does not fall within the scope of amended Claim 33 because the adapter strip (120) is not a “muntin clip.” Shelver does not even disclose a muntin clip. Thus, for this additional reason, Shelver cannot anticipate Claim 33.

**II. Anticipation Rejections Over Leeser**

In Paragraph 3 of the Office Action, the Examiner rejected Claims 11-32 over U.S. Patent No. 3,131,440 to Leeser (“Leeser”). Leeser discloses a single-pane window for a door, having four panes of glass (13) separated by muntin bars (11,12). (Leeser, Col. 3, Lines 20-29). The

muntin bars (11,12) are constructed of two pieces – a base rail (21) and a trim strip (22) – that snap together to form the bar. (Leeser, Col. 3, Lines 63-70). Each of the muntin bars (11,12) is anchored in place by an anchor bar (28) that extends through the center of the muntin bar (11,12) and into a mounting aperture (38) in the mounting strip (15) of the door. (Leeser, Col. 4, Lines 28-64). The edges of the glass panes (13) are protected by calking (17). (Leeser, Col. 3, Lines 44-47).

Claim 20 has been cancelled, and the Examiner's rejection thereof is moot.

**A. Claims 11-17**

Claim 11, as amended, includes, among other elements, “a first pane of glass and a second pane of glass spaced from the first pane of glass by a pane separator, wherein the first pane is generally parallel and in confronting relation to the second pane.” Applicant respectfully submits that Leeser does not disclose, teach, or suggest this element of Claim 11.

The window disclosed in Leeser is a single-paned window, *i.e.*, each section of the window is only one pane thick. Applicant submits that the original language of Claim 11 recited a window having two panes spaced by a pane separator, which does not encompass a single-paned window. However, for purposes of clarity, Applicant has amended Claim 11 to recite that the first pane is “generally parallel and in confronting relation to the second pane,” which clearly excludes single-paned windows from the claim scope. The panes (13) of Leeser are not in confronting relation to each other at any point. Rather, all the panes (13) of Leeser are positioned side-by-side in the window frame. (See Leeser, FIGS. 1, 2, and 4). Thus, Leeser does not disclose, teach, or suggest this element of Claim 11, and Leeser cannot anticipate Claim 11.

Further, Leeser does not disclose a “pane separator” as recited in Claim 11. Notably, the window of Leeser has no need for a pane separator, because the window is single-paned. The calking (17) pointed to by the Examiner in the Office Action is not a pane separator. First of all, the calking (17) confronts only one window pane (See Leeser, FIGS. 2 and 4), and, thus, does not separate or space two of the panes (13). Second, pane separators and calking are widely used in the window art, and the customary meaning of “pane separator” used by those skilled in the art

does not encompass the calking (17) disclosed in Leeser. Thus, because Leeser does not disclose a pane separator, Leeser cannot anticipate Claim 11.

Claim 11, as amended, also includes, among other elements, “a muntin clip located between the first pane and the second pane and having a base having a first surface frictionally engaging the separator and a leg extending from the base and engaging the muntin bar.” Applicant respectfully submits that Leeser does not disclose, teach, or suggest this element of Claim 11.

Leeser does not disclose a muntin clip as recited in Claim 11. In fact, Leeser does not disclose any muntin clip. The base rail (21) pointed to by the Examiner is not a muntin clip; rather, the base rail (21) is part of a muntin bar. (Leeser, Col. 3, Lines 63-65). The window of Leeser does not need to use muntin clips, because the anchor bars (28) secure the muntin bars (11,12) to the window frame. No reasonable interpretation of the term “muntin clip,” as used by those skilled in the art, could encompass a muntin bar, particularly when Claim 11 recites a “muntin bar” as an element of the claim, clearly differentiating the term “muntin clip” from the term “muntin bar.” Thus, Leeser does not disclose, teach, or suggest this element of Claim 11, and Leeser cannot anticipate Claim 11.

Further, Claim 11 recites “a leg extending from the base and engaging the muntin bar.” However, the portion of the muntin bar (11,12) that the Examiner asserts is a “leg” as recited in Claim 11 (reference number 23 in FIG. 4) does not “engage” the trim strip (22), which the Examiner asserts is the recited “muntin bar.” This structure cannot be the claimed “leg” because it is not even in contact with the trim strip (22) and, therefore, cannot engage the alleged “muntin bar” as recited in Claim 11. Thus, for this additional reason, Leeser does not disclose, teach, or suggest this element of Claim 11, and Leeser cannot anticipate Claim 11.

Claims 12-17 depend from Claim 11 and contain all the elements of Claim 11. Thus, for the reasons stated above with respect to Claim 11, Leeser does not disclose, teach, or suggest all the elements of Claims 12-17, and Leeser cannot anticipate Claims 12-17.

**B. Claims 18, 19, and 21-24**

Claim 18, as amended, includes, among other elements, “a sash window mounted in the master frame and having a pair of parallel window panes in confronting relation to one another and spaced by a pane separator.” Applicant respectfully submits that Leeser does not disclose, teach, or suggest this element of Claim 18.

As stated above with respect to Claim 11, the window disclosed in Leeser is a single-paned window, *i.e.*, each section of the window is only one pane thick. Applicant submits that the original language of Claim 18 recited a window having two panes spaced by a pane separator, which does not encompass a single-paned window. However, for purposes of clarity, Applicant has amended Claim 18 to recite that the two panes are “parallel,” and “in confronting relation to one another,” which clearly excludes single-paned windows from the claim scope. The panes (13) of Leeser are not in confronting relation to each other at any point. (See Leeser, FIGS. 2 and 4). Thus, Leeser does not disclose, teach, or suggest this element of Claim 18, and Leeser cannot anticipate Claim 18.

Further, as also described above with respect to Claim 11, Leeser does not disclose a “pane separator” as recited in Claim 18. Thus, for the reasons described above with respect to Claim 11, Leeser does not disclose, teach, or suggest this element of Claim 18, and Leeser cannot anticipate Claim 18.

Claim 18, as amended, also includes, among other elements, “a muntin clip located between the window panes and having a base with a first surface being textured to frictionally engage the pane separator and a leg extending from the base, the leg received by the muntin bar.” Applicant respectfully submits that Leeser does not disclose, teach, or suggest this element of Claim 18.

As described above with respect to Claim 11, Leeser does not disclose a muntin clip as recited in Claim 18. No reasonable interpretation of the term “muntin clip,” as used customarily by those skilled in the art, could encompass a muntin bar, particularly when Claim 18 recites a “muntin bar” as an element of the claim, clearly differentiating the term “muntin clip” from the term “muntin bar.” Thus, for the reasons described above with respect to Claim 11, Leeser does not disclose, teach, or suggest this element of Claim 18, and Leeser cannot anticipate Claim 18.

Additionally, Claim 18 recites, “a leg extending from the base, the leg received by the muntin bar.” However, as described above with respect to Claim 11, the portion of the muntin bar that the Examiner asserts is a “leg” as recited in Claim 18 (reference number 23 in FIG. 4) does not even contact the trim strip (22), which the Examiner asserts is the recited “muntin bar.” Thus, for the reasons described above with respect to Claim 11, Leeser does not disclose, teach, or suggest this element of Claim 18, and Leeser cannot anticipate Claim 18.

Claims 19 and 21-24 depend from Claim 18 and contain all the elements of Claim 18. Thus, for the reasons stated above with respect to Claim 18, Leeser does not disclose, teach, or suggest all the elements of Claims 19 and 21-24, and Leeser cannot anticipate Claims 19 and 21-24.

### **C. Claims 25-32**

Claim 25, as amended, also includes, among other elements, “a muntin clip comprising a base having a first surface adapted to frictionally engage the separator and a connector extending from the base and attached to the muntin bar end.” Applicant respectfully submits that Leeser does not disclose, teach, or suggest this element of Claim 25.

As described above with respect to Claim 11, Leeser does not disclose a muntin clip as recited in Claim 25. In fact, Leeser does not disclose any muntin clip. The base rail (21) pointed to by the Examiner is not a muntin clip; rather, the base rail (21) is part of a muntin bar. (Leeser, Col. 3, Lines 63-65). The window of Leeser does not need to use muntin clips, because the anchor bars (28) secure the muntin bars (11,12) to the window frame. No reasonable interpretation of the term “muntin clip,” as used customarily by those skilled in the art, could encompass a muntin bar, particularly when Claim 25 recites a “muntin bar” as an element of the claim, clearly differentiating the term “muntin clip” from the term “muntin bar.” Thus, for the reasons described above with respect to Claim 11, Leeser does not disclose, teach, or suggest this element of Claim 25, and Leeser cannot anticipate Claim 25.

Claims 26-32 depend from Claim 25 and contain all the elements of Claim 25. Thus, for the reasons stated above with respect to Claim 25, Leeser does not disclose, teach, or suggest all the elements of Claims 26-32, and Leeser cannot anticipate Claims 26-32.

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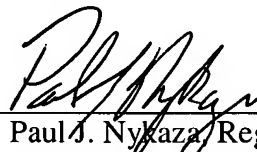
**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration of the Examiner's rejections and allowance of Claims 1-19 and 21-33 in the present Application. Applicant submits that the Application is in condition for allowance and respectfully requests an early notice of the same.

Respectfully submitted,

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By: \_\_\_\_\_




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**CERTIFICATE UNDER (37 C.F.R. § 1.8a)**

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 13, 2006.



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